

AMENDED IN SENATE AUGUST 4, 2008

AMENDED IN SENATE JULY 7, 2008

AMENDED IN SENATE JULY 2, 2008

AMENDED IN ASSEMBLY JANUARY 24, 2008

AMENDED IN ASSEMBLY JANUARY 7, 2008

AMENDED IN ASSEMBLY DECEMBER 13, 2007

CALIFORNIA LEGISLATURE—2007–08 REGULAR SESSION

ASSEMBLY BILL

No. 730

Introduced by Assembly Member De Leon
(Coauthors: Assembly Members Bass, Eng, Karnette, Mendoza,
and Price)

February 22, 2007

An act to add Section 6612 to the Public Contract Code, relating to public contracts.

LEGISLATIVE COUNSEL'S DIGEST

AB 730, as amended, De Leon. Public contracts: information technology goods and services: protections against default.

Existing law governs the procurement of materials, supplies, equipment, and services by state and local agencies, regulates the acquisition of information technology goods and services by the state, and sets forth various requirements, as provided, to be followed by a vendor in bidding for a contract for goods and services with a state or local agency, as specified.

This bill would require any bidder on a contract for information technology; goods or services-~~contract~~ with a public entity to disclose

any *specified* ongoing litigation within the United States, and any *specified* litigation in which it had been named as a party to the lawsuit within the previous 5 years within the United States. This bill would require any contract for information *technology goods or services* entered into between a public entity and vendor who has been found liable for breach of contract, as specified, to contain taxpayer protections against default or failure to fulfill the obligations of the contract, as specified.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 6612 is added to the Public Contract
2 Code, to read:
3 6612. (a) This section shall be known and may be cited as the
4 Information Technology Vendor Transparency and Taxpayer
5 Protection Act.
6 (b) For purposes of this section, “information technology”
7 includes, but is not limited to, all electronic technology systems
8 and services, automated information handling, system design and
9 analysis, conversion of data, computer programming, information
10 storage and retrieval, requisite system controls, simulation, and
11 electronic commerce.
12 (c) Any bidder on an information technology goods or services
13 contract with a public entity, as defined in Section 1100, shall be
14 required to disclose any ongoing litigation within the United States,
15 and any litigation in which it had been named as a party to the
16 lawsuit within the previous five years within the United States.
17 *The disclosures required by this subdivision shall only apply to*
18 *information technology goods or services contracts involving a*
19 *public entity.*
20 (d) Any contract for information technology goods or services
21 entered into between a public entity and a vendor, that has been
22 found liable by a court of competent jurisdiction within the United
23 States for breach of an information technology goods or services
24 contract awarded by a public entity, shall contain taxpayer
25 protections against default or failure to fulfill the obligations of
26 the contract.

(e) Subdivision (d) shall only apply to vendors found liable for breach of contract that costs more than ~~one~~ *five* million dollars (~~\$1,000,000~~) (*\$5,000,000*) and the final judgment exceeded 15 percent of the cost of that contract and only for a period of five years, beginning from the date of the final judgment. *For purposes of this subdivision, the vendor must have been found liable for default or failure to fulfill the obligations of the contract with a public entity.*

(f) Taxpayer protections shall include at least one of the following:

(1) Performance security, such as a letter of credit, certificate of deposit, or performance bond, which shall be acceptable to the public entity.

(2) Payment withholds of a substantial portion of the contract price until final delivery and acceptance of the goods or services.

(3) Liquidated damages for delayed performance of key deliverables or defective performance.

(g) Nothing in this section shall preempt any debarment ordinance of any public entity.